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7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,) CASE NO. CR 14-00306 WHA
12) CASE NO. CR 08-00222 WHA
Plaintiff,)
13 v.) **MOTION TO WITHDRAW AS**
14 LUKE BRUGNARA,) **COUNSEL OF RECORD;**
15 Defendant.) **[PROPOSED] ORDER**
_____)

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18 INTRODUCTION

19 Assistant Federal Public Defender Brandon LeBlanc and the Office of the Federal Public
20 Defender respectfully move this Court for permission to withdraw from the representation of
21 Defendant Luke Brugnara in criminal matters CR 08-00222 WHA and CR 14-00306 WHA.

22 MOTION

23 On May 28, 2014, Mr. Brugnara was arrested by the F.B.I. for mail fraud, in violation of
24 18 U.S.C. § 1341. *See* CR 14-00306, Docket Entry Nos. 1, 11. Mr. Brugnara made his initial
25 appearance before Magistrate Judge Jacqueline S. Corley on the same day. *See* CR 14-00306,
26 Docket Entry No. 5. During his initial appearance and during many subsequent court

1 appearances in the weeks that followed, Mr. Brugnara – including during his testimony before
2 this Court on June 17, 2014 and June 18, 2014 – made myriad statements on the record which
3 have implicated undersigned defense counsel as being a witness in his case(s).¹

4 This Court, aware of the potential attorney-witness problem (even prior to Mr. Brugnara's
5 testimony), has twice-filed orders urging undersigned defense counsel to evaluate and make a
6 swift and conclusive determination as to whether a conflict exists such that withdrawal is
7 necessary. *See* Docket Entry Nos. 272, 277.

8 In response, undersigned counsel, Federal Public Defender Steven G. Kalar, and other
9 senior members of the Office of the Federal Public Defender, have extensively discussed Mr.
10 Brugnara's case(s) and any ethical issues surrounding this Office's continued representation of
11 him. To assist this Office in thoroughly evaluating any potential conflict(s), two independent
12 legal ethicists (both unaffiliated with this Office) were also consulted at length.

13 It is that the uniform conclusion of this Office, Federal Defender Kalar, and both legal
14 ethicists who were consulted is that, in light of, *inter alia*, Civil Local Rule 11-4 (governing the
15 Standards of Professional Conduct), the American Bar Association's Model Rule of Professional
16 Conduct 3.7 (governing the lawyer as witness), and California Rule of Professional Conduct 3-
17 100, a conflict exists that demands undersigned counsel immediately withdraw from representing
18 Mr. Brugnara.

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25 ¹ It is anticipated that Mr. Brugnara would continue to do so at trial, further exacerbating
26 the existing conflict.

1 **CONCLUSION**

2 As such, undersigned counsel and the Office of the Federal Public Defender respectfully
3 move this Court for an order permitting them to withdraw as counsel of record in CR 08-00222
4 WHA and CR 14-00306 WHA.

5 Dated: June 23, 2014

6 Respectfully submitted,

7 STEVEN G. KALAR
8 Federal Public Defender

9 /S/

10 BRANDON M. LEBLANC
11 Assistant Federal Public Defender

12 **[PROPOSED] ORDER**

13 For the reasons stated by counsel, and good cause appearing, IT IS ORDERED that
14 Assistant Federal Public Defender Brandon M. LeBlanc and the Office of the Federal Public
15 Defender are hereby relieved as counsel of record for Defendant Luke Brugnara.

16 IT IS SO ORDERED.

17 Dated: _____

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19 WILLIAM H. ALSUP
20 United States District Judge
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